

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIRK WALTER TICHGELAAR,

Defendant.

NO. CR21-114 RSL
CR21-115 RSL

GOVERNMENT'S SENTENCING
MEMORANDUM

I. INTRODUCTION

Dirk Walter Tichgelaar, a convicted sex offender, traveled hundreds of miles from his home in Oregon because he believed he was going to have the chance to brutalize a little girl. Fortunately, that five-year-old girl did not exist. And when Tichgelaar arrived at the hotel where he planned to rape her, federal agents were waiting for him.

Bizarrely, he now says he knew it was a set up all along. He was not, he says, planning to rape an innocent child. Rather, he was desperate to return to a life of incarceration.

For multiple reasons, the Court should be skeptical. First, a sincere desire to be arrested and imprisoned is difficult to square with a calculated (if ill-conceived) attempt to tamper with and destroy evidence. Second, given what was stored on his devices, he

1 could have saved himself considerable time and effort by simply walking his computer
2 into a local police station and asking someone to take a look.

3 Tichgelaar's alternative explanation for why he traveled to Washington is certainly
4 more appetizing, but it is not credible. Make no mistake, Tichgelaar is where he is
5 because given the opportunity, he would have done unspeakable violence to a five-year-
6 old. The clearest evidence of what he intended is not what he says now but what he said
7 and did when he thought no one else was watching. Lengthy confinement and close
8 supervision are therefore necessary to incapacitate Tichgelaar and neutralize the threat he
9 poses.

10 The government therefore recommends a sentence at the low end of the advisory
11 range followed by lifetime supervision.

12 **II. FACTUAL AND PROCEDURAL BACKGROUND**

13 As detailed in the criminal complaint, Dkt 1, this investigation began in October
14 2019 when an undercover agent (the UC) was engaged in covert activity on internet chat
15 rooms known to be associated with child sexual abuse and the trade of child
16 pornography. The UC purported to be the father of a five-year-old girl, and he began
17 chatting with Tichgelaar, who was using a screenname containing the word "pedo."
18 Between October 2019 and January 2020, the UC and Tichgelaar engaged in a series of
19 chats in which Tichgelaar told the UC he wanted to travel from Oregon to Washington to
20 rape the UC's daughter. For example, Tichgelaar told the UC about his desire to orally
21 rape this five-year-old in the exchange below:

22 <UC> can u describe what u would love to do to [REDACTED], and by the way
23 she has beautiful shiny dark hair, blue eyes, almost perfect skin, athletic figure and
24 kinda small for a 5yo

25 <TICHGELAAR> first i would want to kiss and lick all over her body, feel and
26 taste here

27 <TICHGELAAR> her

1 <TICHGELAAR> as my cock got nice and hard i'd like to rub it over her pussy
2 just to feel it

3 <UC> yes!

4 <TICHGELAAR> if she can have her stroke me a little before i have her start
5 doing oral

6 <TICHGELAAR> i would either cum in her mouth or pull out and cum on her

7 <UC> which is better?

8 <TICHGELAAR> does she swallow?

9 <UC> of course

10 <TICHGELAAR> then i would prefer in her mouth

11 <UC> nice

12 And in this exchange, Tichgelaar talked about how he could expand the scope of
13 the rape and abuse of this little girl over time.

14 <TICHGELAAR> have you thought about making this something a little longer
15 then one and done yet? something where i can help you get her further along?

16 <UC> ive thought about it, but like i said im more comfortable w/ a one and done.
17 of course, i don't want to rule anything out.

18 <TICHGELAAR> :)

19 <UC> what besides oral do u want to do w/ [REDACTED]?

20 <TICHGELAAR> do you have any kind of time frame for this happening that
21 your ok with thus far? i don't ask to be pushy i swear, i'm just curious

22 <TICHGELAAR> at 5 she's not able to do more more

23 <TICHGELAAR> i'd love to cum all over her though

24 <TICHGELAAR> rub it on her pussy

25 <TICHGELAAR> if it was ongoing i would be trying to get her ready for anal
26 within a few months, and vaginal by the time she was 8 – 10

27 <UC> yeah, i have been training her w/ a plug but don't know how big u are

1 <TICHGELAAR> i'm fairly thick, i don't think she'd be ready yet
2

3 Ultimately, the UC and Tichgelaar made arrangements for a meeting on January
4 25, 2020. That day, Tichgelaar drove from his home in Portland, Oregon, to the meeting
5 location in Whatcom County. Upon meeting the UC, Tichgelaar was placed under arrest
6 and during an interview, acknowledged that what he talked about doing to the UC's
7 fictitious five-year-old was illegal and claimed that he had not previously acted on his
8 fantasy involving the abuse of young children. When he arrived, he had with him a bag
9 containing an "Elsa"—a character from Disney's Frozen franchise—dress, which was
10 intended as a gift for the fictitious five-year-old.

11 While he was in custody in Whatcom County awaiting transport to his initial
12 appearance, Tichgelaar called his sister, with whom he shared his home in Portland. He
13 asked her to find and destroy a thumb drive and run specialized software to remove
14 evidence of child pornography from his computer. His sister did run the program as
15 requested but did not destroy the thumb drive.

16 Law enforcement executed a federal search warrant at Tichgelaar's Portland home
17 on February 1, 2020, seizing multiple items of digital media. Forensic examination of
18 those digital media revealed several contained images and videos of child pornography,
19 as well as evidence of Tichgelaar's internet activity and chat history about his interest in
20 the sexual abuse of children.

21 Following his arrest and initial appearance, the Court ordered Tichgelaar detained.
22 Tichgelaar ultimately pled to one count of attempted enticement of a minor and one count
23 of possession of child pornography. That latter charge was initially filed in the District of
24 Oregon. That case was transferred to this district under Rule 20 of the Federal Rules of
25 Criminal Procedure so that Tichgelaar could enter pleas to all counts as part of a global
26 resolution.
27

1 **III. APPLICATION OF MANDATORY MINIMUM IN CR21-114**

2 The government anticipates the defendant will object to the application of a 10-
 3 year mandatory minimum for possession of child pornography. The government believes
 4 that mandatory minimum does apply because the defendant's Oregon conviction is a
 5 conviction relating to sexual abuse as required by 18 U.S.C. § 2252(b)(2). Even if the
 6 Court agrees with the defense, the defendant still faces a 10-year minimum for the count
 7 of conviction in Cause No. CR21-115. And because the factual admissions in the plea
 8 agreement establish that defendant's violation of 18 U.S.C. § 2252(a)(4)(B) involved a
 9 prepubescent minor or a minor who had not attained 12 years of age, the statutory
 10 maximum for that offense remains 20 years even if no mandatory minimum applies. *See*
 11 18 U.S.C. § 2252(b)(2).

12 **IV. GUIDELINES RANGE**

13 The government agrees with U.S. Probation's calculation of the Sentencing
 14 Guidelines. With a TOL of 39 and CHC V, the advisory range is 360 months to life.

15 **V. SENTENCING RECOMMENDATION**

16 The government believes a sentence at the low end of the advisory range followed
 17 by lifetime supervision is the appropriate sentence in light of 18 U.S.C. § 3553(a).

18 Dirk Walter Tichgelaar is a dangerous predator with a history of offending against
 19 vulnerable minors. The only thing that prevented his savaging a little girl was the fact
 20 that she did not exist. He had the means and the motivation. It was only because he was
 21 involved in a sting that he lacked the opportunity.

22 Nor was what happened here a one off. The examination of his digital media
 23 showed that Tichgelaar also uses child sexual abuse material to satisfy his dark sexual
 24 appetite. People who consume this material perpetuate a trade that depends on the
 25 destruction of innocent lives. Tichgelaar chose momentary gratification over the welfare
 26 of children, and he must understand that such a choice is made at great peril.
 27

1 This is not to say Tichgelaar's case is devoid of mitigation. Prison is difficult
2 under the best of circumstances of course, but Tichgelaar's health will certainly not make
3 life in prison any easier. As he is in his late 40s, even a sentence far less than that
4 recommended by the government would see him well into his 60s before release.

5 However, from the government's perspective, Tichgelaar's history and offense
6 conduct demonstrate that confinement is the only certain means of preventing him from
7 harming another child. And if he is to be out in the community, close supervision will be
8 a necessity.

9 Understandably, Tichgelaar wants this Court to believe that his actions were
10 motivated by something other than a desire to assault a young girl. But the government
11 urges the Court to see this post hoc rationalization for the fiction that it is. Whatever
12 sentence this Court concludes is reasonable in the end, it should not be lulled into a false
13 sense of security about what Tichgelaar wanted and why he did what he did.

14 The government therefore respectfully asks this Court to impose a sentence at the
15 low end of the advisory range and lifetime supervision.

16 VI. RESTITUTION

17 The government received claims from multiple series victims. Defense counsel is
18 attempting to negotiate with the victim representatives hoping to reach an agreed
19 restitution amount. Additional time is necessary to let those discussions run their course.
20 And the parties will therefore request that the Court set a restitution hearing at a later
21 date.

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VII. WAIVER OF APPEAL

As part of the plea agreement, the defendant has waived his right to appeal the sentence imposed in this case if the sentence does not exceed the applicable Guidelines range determined by the Court at the time of sentencing. If the Court imposes a sentence within this applicable Guidelines range or less, the government respectfully requests that the Court notify Defendant, pursuant to Federal Rule of Criminal Procedure 32(j)(1)(B), that he has waived his appeal rights except as to the effectiveness of legal representation. Otherwise, the government requests that the Court notify Defendant of his right to appeal the sentence as set forth in Title 18, United States Code, Section 3742.

DATED this 6th day of July, 2023.

Respectfully submitted,

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s/ Matthew P. Hampton

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